

# FARMINGTON CITY COUNCIL MEETING

June 3, 2008

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## **CITY COUNCIL WORK SESSION/EAST CONFERENCE ROOM**

***PRESENT:*** Mayor Scott Harbertson, Council Members Richard Dutson, Paula A. Alder, Sidney C. Young, David Hale, Cory Ritz, City Manager Max Forbush, Recording Secretary Kami Mahan, and Ryan Hales and Kathy Izatt from America West Developers.

Prior to the work session, the City Council took a field trip to tour Woodland Park in preparation for Agenda Item #12.

**Mayor Harbertson** began discussion at 6:12 p.m. Sid Young offered the invocation. The following items were reviewed:

### **(Agenda Item #2): Reading and Approval of Minutes**

The Council reviewed the minutes of the City Council meeting held May 20, 2008. Two changes were made.

### **(Agenda Item #5): Consideration of Modified Final Plat for “Village at Old Farm”, Phase II.**

**Mayor Harbertson** reviewed the concerns of the Planning Commission with regard to density, parking, and garbage disposal in the project, and he explained the modified final plat. The motion was discussed. Council members also expressed their concern with density and parking in the area.

There was a brief discussion concerning the retail development in this area. The Council agreed to question the developer if he was present at the City Council meeting.

### **(Agenda Item #7): Amended Development Agreement for Tuscany Village.**

**Max Forbush** distributed copies of proposed and “draft” elements of a Reimbursement Agreement and the proposed second draft of the Development Agreement with Tuscany Village. He said the Development Agreement needs to be signed and recorded by June 30<sup>th</sup>, which will help the City meet budget projections.

### **(Agenda Item #9): Reconsideration of Creekside Homeowners Association Request.**

**Mayor Harbertson** reviewed a short history of the Creekside HOA Development Agreement and the HOA’s request for the City to maintain the Glover Lane and 200 Eat right of way side treatments. Previously the City Council had rejected the idea.

**The Mayor** reported on a meeting held with HOA representatives, who expressed their disappointment over the Council's decision and also their concerns with lack of access to the right-of-way, cost of maintenance, and legal liability. The maintenance expense for maintaining the street frontage is approximately \$3,000 - \$4,000 per year.

A compromise is being proposed for a binding agreement requiring the HOA to maintain the right-of-way, and that the City will help cover up to 50 percent of the maintenance costs per year. Max Forbush reported that the City Council's intent at the time of approval of the Development Agreement was to have the street frontage improvements be perpetually maintained by the HOA, but this lasted only five years because the developer would not sign an agreement binding the HOA to perpetually maintain the improvements following the initial five-year period.

There was an extended discussion of the Council with regard to setting a precedent. **Mr. Forbush** pointed out that there is no way to force the HOA to maintain the street frontage improvements unless there is a binding agreement. Details of the proposed agreement presented by the Mayor and the possibility of an escalation clause were discussed.

**(Agenda Item #13): Review of the revised budget changes.**

**Max Forbush** distributed copies of the budget changes, and said these would be discussed during City Council meeting.

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**REGULAR CITY COUNCIL MEETING/ CTY CHAMBERS/CALL TO ORDER**

**PRESENT:** Mayor Scott C. Harbertson, Council Members Richard Dutson, David Hale, Paula A. Alder, Sidney C. Young, Cory Ritz, City Manager Max Forbush, City Planner David Petersen, Assistant City Planner Glenn Symes, Margy Lomax, City Recorder, and Recording Secretary Kami Mahan.

**Mayor Harbertson** called the meeting to order at 7:02 p.m. **David Hale** offered the invocation. The Pledge of Allegiance was led by a Boy Scout.

**APPROVAL OF MINUTES OF PREVIOUS MEETING**

The minutes of the May 20, 2008, City Council meeting were reviewed during the work session.

**Motion**

**Sid Young** moved to approve the minutes of the meeting held May 20, 2008, with changes as noted. **Rick Dutson** seconded the motion, which was unanimously approved. **David Hale** abstained

due to his absence at that meeting.

### **INTRODUCTION OF MISS FARMINGTON - TIFFANY ARBUCKLE**

**Mayor Harbertson** welcomed Sue Ann Phillips, the Miss Farmington Pageant Committee Advisor, **Tiffany Arbuckle**, the newly crowned Miss Farmington, **Whitney Dustin**, former Miss Farmington, and **Breanne Patch**, the former Miss North Cottonwood.

**Tiffany Arbuckle** explained her plans as Miss Farmington for the upcoming year, including a silent auction for Festival Days, a possible Mexico trip, and a Mr. Farmington pageant to raise money for the Children's Miracle Network. **Whitney Dustin** and **Breanne Patch** each reported on their activities for the past year, which included fund raising efforts on behalf of the Children's Miracle Network and Relay for Life.

### **PLANNING COMMISSION REPORT**

**Kevin Poff** reported proceedings of the Planning Commission meeting held May 29, 2008. He covered the following items:

- The Planning Commission received an invitation from the Trails Committee to the Buffalo Ranches Trail inaugural.
- A presentation on "Save Our Stars" was given by Scout Troop 3300.
- The Planning Commission denied a request by Gardner Village to amend the plat. The Commission found there was no legitimate reason to divide the subdivision into two phases. Several twin homes were replaced with single family dwellings, which reduced the total number of dwellings by six.
- The Planning Commission held a discussion with America West Developers regarding their proposal. **Mr. Poff** suggested that the City Council consider the definition of "concept plan." Because of ongoing re-evaluation of zoning, the Commission was not comfortable giving specifics on density, traffic patterns, and other issues until further study has been done.
- The Commission received a progress report on the historical preservation ordinance.

### **CONSIDERATION OF MODIFIED FINAL PLAT FOR "VILLAGE AT OLD FARM", PHASE II**

**Mayor Harbertson** stated that this item was discussed in the work session

**Motion**

**Rick Dutson** made a motion to approve the Modified Final Plat, based on the Planning Commission's recommendation and the conditions stated in the July 16, 2007, letter from the City to Todd Sorensen, approving Phase 2A (which would be reduced by six lots, due to changing the twin homes to single family homes), and 2B as proposed. The conditions of approval are as follows:

1. The Developer must prepare the modified plans and receive a formal approval from the City Engineer for the Final Plat and Final Master Plan memorializing the storm-water detention for the site;
2. The Developer must cooperate with the City fully in determining an appropriate status for the Historic Alley Rose House and its use and/or restoration;
3. The Developer must provide more detail for staff review of the open space and other site amenities prior to recording;
4. The Developer must receive full approval from UDOT for the access on Highway 89;
5. A Development Agreement between the City and Developer must be prepared, reviewed and approved so as to be recorded concurrently with the Final Plat for the 2<sup>nd</sup> Phase of the project;
6. The Developer must meet each condition of all preliminary approvals, including but not limited to Preliminary (PUD) Master Plan/Planned Center approval and Preliminary Plat approval.

**Paula Alder** seconded the motion, which passed by a unanimous vote.

**MINUTE MOTION APPROVING SUMMARY ACTION LIST**

- **Ratification of approvals of Construction Bond Agreements.**
- **Approval of April's list of disbursements.**
- **Approval of Service Agreement for electronic deposits and file for account updates with Check-Free Services Corporation and iPay Technologies.**
- **Approval of CRSA Planning Services Agreement.**

**Mayor Harbertson** briefly reviewed the Summary Action List. **The Mayor** informed the Council that the modifications on the CRSA Planning Services Agreement were prepared by the City Attorney.

**Motion**

**David Hale** moved to approve the Summary Action List. The motion was seconded by **Cory Ritz**, and passed unanimously.

**AMENDED DEVELOPMENT AGREEMENT FOR TUSCANY VILLAGE**

**Mayor Harbertson** explained that because the original development agreement had not been signed by the developer, changes have come about. **The Mayor** detailed some of these changes, which involve an additional asphalt extension along the frontage road, and the expansion of a storm water system which will extend along the frontage road and tie in at Lund Lane. A Reimbursement Agreement will address the issue of curb and gutter to be installed along a land parcel owned by F. Jay Parker between Willow Creek and the Tuscany Village areas.

**Max Forbush** reviewed in detail the system improvements which are being installed by the developer. These were outlined on the map of the area distributed earlier during the work session. **Mr. Forbush** said the system improvements are on the capital facilities plans.

**Mr. Forbush** pointed out a conservation easement parcel along the frontage which will be conveyed to the City. The developer will contribute \$1.00 per square foot toward landscaping of this open space parcel which will be improved by the City.

**Mr. Forbush** stated that a provision needed to be added to the Agreement relating to curb and gutter and the 125 foot asphalt extension along the F. Jay Parker frontage. The developer has made a purchase offer to Mr. Parker. If the sale is successful, the City wants to be reimbursed for the cost of the curb, gutter, and for the Developer's share of the asphalt paving.

Developer **Brock Johnson** said he was not yet certain if curb and gutter and extension of the asphalt is in the right-of-way. He said if someone else purchases the property. They should be responsible for paying the normal "project" development costs.

**Max Forbush** suggested that the Council approve the agreement as written, and that the formal reimbursement and pioneering agreements would be prepared later.

**Motion**

**Sid Young** moved to approve the amended development agreement and the basic elements of a reimbursement Agreement, subject to verifying this area of the improvements is in the right-of-way, and directing City Staff to have the formal reimbursement as well as the appropriate pioneering agreements prepared for the next Council meeting. **Rick Dutson** seconded the motion, which was unanimously approved.

**RESOLUTION AMENDING FEE SCHEDULES FOR RESIDENTIAL AND NON-RESIDENTIAL BUILDING PERMITS IN CONNECTION WITH TITLE 10 OF CITY CODE.**

**Mayor Harbertson** stated that the fee schedules were calculated by the square foot, with the exception of the hot tub. The meaning of the asterisks on Items R-2 and R-3 on Exhibit "B" of the Non-Residential Building Permit Fees Schedule were clarified. The new fee schedule will take effect immediately. **Mr. Forbush** reviewed the permit fee appeal process.

Questions about the proposed fee schedule were answered by **Mr. Forbush**.

**Motion**

**Dave Hale** moved to approve the Resolution Amending Fee Schedules for Residential and Non-Residential Building Permits in Connection with title 10 of the City Code. The motion was seconded by **Rick Dutson**, and passed by a unanimous vote.

**RECONSIDERATION OF CREEKSIDE HOMEOWNERS ASSOCIATION REQUEST**

**Mayor Harbertson** said this situation was reviewed during the work session. He explained the City's proposed compromise to have a binding agreement between the City and the HOA, which would require the HOA to continue to maintain the right-of-way between the fence and the street, and that the City would cover a portion of the annual maintenance costs. Even though the original agreement expired and the second agreement was not signed by the developer, the City's original intent was for the HOA to have permanent responsibility for maintaining the frontage and right-of-way. **The Mayor** opened the matter up to the Council for discussion.

**Sid Young** commented that this was an unusual situation, and said he was in favor of the City contributing 50% to the yearly maintenance costs. In response to a question by **Mr. Young**, Creekside HOA President **Scott Weiler** said that last year's snow removal and other maintenance fees were \$3,800.

**David Hale** stated that the entire subdivision benefits by having the area maintained by the HOA, which is preferable to having it done by the abutting property owners.

In response to a question by an HOA member who was present at the meeting, **Mayor Harbertson** explained that HOA situations differ throughout the City according to the respective development agreements. He stated that this agreement was entered into by a previous Council, and the City is now trying to create the best reasonable situation.

In response to another concern by an HOA member regarding a City-owned rock path running

from the end of Shady Creek Lane to 200 East, **Max Forbush** said that a previous City Council wanted the rock path for access purposes. There was another HOA agreement that developer, Mike Flood, would not sign, so it was not recorded. It was the sitting City Council's intent at the time for the maintenance of the right-of-way to be perpetual, and they did not want curb cuts along Glover Lane, due to talk at the time of a possible freeway interchange at Glover's Lane. The City had also wanted Glover Lane to have a look similar to Main Street, as a "window" on the City. **Mr. Forbush** said this proposal is a good compromise, without setting a precedent because of the proposed quid-pro-quo arrangement.

An HOA member raised concern with legal liability associated with snow removal. **Max Forbush** said that the City Attorney has advised against having the City assume liability. The ordinance states that it is the duty of abutting property owners throughout the City to remove snow. **The Mayor** said if the rock path is in the right-of-way, it would be included as part of the area to be maintained by funds donated by the City.

There was brief discussion of the fencing around the HOA.

### **Motion**

**Sid Young** made a motion that the City approve a compromise agreement to pay \$2,000 per year on an ongoing basis to the Creekside HOA for maintenance of the area from fence to curb and gutter, along Glover Lane and 200 East, and including the trail. **David Hale** seconded the motion.

The unique circumstances of this HOA request were emphasized, which include the wider landscape area, the tree lined street, and the lack of a current contract between the City and the HOA. The Council stressed that this does not set a precedent for other HOA's.

**Cory Ritz** asked if the City was utilizing its power of bonding and approvals to ensure that developers are not evading agreements. **Max Forbush** said the developer did his part, but there was no way of ensuring perpetuity in maintenance. The City has a history of amending agreements with home owner associations but this is only when there is a benefit to the City. The current precedent is that owners maintain their own open space.

The Council voted unanimously in favor of the motion. Mr. Weiler said he would meet with his HOA Board and membership and report back.

### **RECONSIDERATION OF FENCING PROJECT ON I-15 BRIDGE AT SHEPARD LANE .**

**Mayor Harbertson** reviewed this Agenda Item, and explained that if action is taken to increase safety on the Shepard Lane bridge, enforcement and maintenance will increase liability exposure to the City. The URMA (Utah Risk Management Association) experts have recommended leaving the bridge as it is because traffic is minimal. The letter from URMMA was discussed.

The Council discussed at some length possible ways to increase safety while at the same time minimizing liability risk to the City. Options included signage, fencing, and letters to area residents. Council members expressed serious concern about the City being aware of the safety issues but not taking action.

**Sid Young** said that a pedestrian bridge is the ideal and he would like to keep this under consideration. **David Hale** said the key is to petition UDOT in the future. **Mr. Hale** volunteered to talk to the area residents since this is in his neighborhood. The Council discussed possible wording for signs, and **Max Forbush** said he would consult the with others and return with some options.

### **Motion**

**Paula Alder** moved to drop this project from the City's Capital Improvements list and to discuss signage at a later time. **Rick Dutson** seconded the motion, which passed by a unanimous vote.

### **AWARD OF STREET MAINTENANCE CONTRACT TO MORGAN ASPHALT**

**Mayor Harbertson** said that submitted bids were higher than expected, and that ways of lowering the costs have been studied. Portions of the Road Maintenance bid proposal were reviewed. City Engineer **Tammy North** answered questions from the Council concerning the Woodland Park project and proposed road improvements for the City.

**Paula Alder** commented on the poor job done on the asphalt overlay on her street, and said she does not want this to occur in other areas.

### **Motion**

**Paula Alder** moved to authorize **The Mayor** to sign a contract with Morgan Asphalt for the annual street maintenance projects as listed on the FY 2009 Road Maintenance contract. The motion was seconded by **Sid Young**, and passed unanimously.

**Mayor Harbertson** suggested handling Agenda Item #14 ahead of Item #12.

### **MODIFIED BUDGET PROPOSAL FOR WOODLAND PARK/AUTHORIZATION TO AMEND CONTRACT WITH EDWARDS DANIELS ARCHITECTS TO DESIGN RESTROOM**

**Mayor Harbertson** said this matter was discussed during the pre-work session tour of Woodland Park. The Council discussed details of the Woodland Park budget, including the amount of road to pave, the design and construction costs for the restrooms and for a picnic bowery. It was pointed out that additional portable toilets will be needed for special events even after a restroom is constructed.



**Motion**

**Rick Dutson** made a motion to authorize the changes in the modified budget, and to authorize Edwards Daniels Architects and their subcontractors (consultants) to design the restroom, not to exceed \$8,700. **Dave Hale** seconded the motion, which was unanimously approved.

**REVIEW OF THE REVISED BUDGET CHANGES**

**Max Forbush** referred to the “Changes made to FY 08 and 09 Budgets” handout previously distributed, and he reviewed details of the modifications. He said that Lagoon’s contribution to the Train Station enhancements had been omitted and needed to be included. The categories reviewed included Impact Fees, Woodland Park, Cemetery Land Purchase, Park Acquisitions, Police Department Budget, and the new City offices.

A full budget packet will be available for the budget hearing.

**SCHEDULE STUDY SESSION WITH AMERICA WEST**

**Mayor Harbertson** invited **Robert McConnell** from America West Development to address the Council. **Mr. McConnell** briefly reported on their meeting with the Planning Commission. He said the City began the process of zoning re-evaluation ten days after America West’s zoning had been approved. Some of the development’s requests included:

1. To identify the conditional uses that will allow them to build.
2. To identify development standards.
3. To identify the approval process for moving forward.
4. To sign off on the conceptual plan.

**Mr. McConnell** stated that these requests are reasonable because they are asking for less than other developers have received, and they will address capacity and engineering issues raised by City Staff and the Planning Commission. Investors are frustrated over the delay and there is some concern about possible withdrawal. They are also receiving pressure about the right-of-way. **Mr. McConnell** said they would like to go forward with their own plans rather than UDOT’s.

There was discussion regarding the difficulty of approving development proposals before the City had finalized zoning issues in the area.

A meeting date was discussed. Whether to consider a Conceptual Plan as opposed to a Project Master Plan was also discussed. **Mr. McConnell** distributed copies of the plan. He said they are

trying to get to a point of knowing whether they are procedurally in order.

The Council agreed to meet with America West developers on June 17<sup>th</sup> at 4:30 p.m.

### **FUTURE TOUR OF LEGACY HIGHWAY**

The Council discussed possible dates for the tour, and agreed to meet on June 24<sup>th</sup> at 4:00 p.m. at City Hall.

### **CITY MANAGER'S REPORT OF LEGACY HIGHWAY TRAIL MAINTENANCE DISCUSSIONS**

**Max Forbush** reported on his meeting with city managers from the four other cities abutting Legacy Highway regarding Legacy Highway trail maintenance. He said they agreed to discuss the matter with UDOT. It is estimated that the cost of trail maintenance for Farmington alone is \$70,000, which does not include asphalt repair, maintenance and replacement. A landscape architect will submit a proposed draft for trail maintenance to the five abutting cities. This information will be gathered and presented to the various mayors and representatives from UDOT on each city's section of the trail.

**Mr. Forbush** said that it was agreed at the meeting to have the entire trail maintained by one organization. The five city managers and staffs will gather facts and the costs of maintaining the system, then meet with city Mayors and UDOT officials to present the facts and findings. They will ask how to approach the legislature, which does not understand or recognize the full impact of the cost and burden to cities of trail maintenance. The cost of city maintenance of the trail competes with other general fund needs such as fire and police protection and other services.

**Mr. Forbush** said a meeting will be scheduled at the end of June, and then the next step can be taken.

### **AFFORDABLE HOUSING ALTERNATIVES DISCUSSION**

**Max Forbush** explained that the City has issued redevelopment bonds which need to be used by the end of June. He outlined the four possible alternatives of how the bonds could be spent. These options included:

- 1) Pay off the affordable housing loan only and save the balance for purchasing property in the Bank block.
- 2) Set up a revolving loan with the Housing Authority for rehabilitating historic homes.

- 3) Retire all of the RDA bonds at once.
- 4) Pay off the affordable housing loans only.

**Mr. Forbush** reviewed these options in detail, and said the RDA Agency's Attorney proposed that a Community Development Area (CDA) could be established where most of the historic homes are located. The bond proceeds could be spent in that area.

The Council discussed the alternatives. **Mr. Forbush** clarified details of each option. His recommendation was to approve Option #1. He said that as this program is developed, the City will get additional ideas for the downtown area, including whether to create a CDA area. **Mr. Forbush** said that RDA Attorney Randy Feil has indicated there is money to finance Option #1.

### **Motion**

**Rick Dutson** moved to recommend Option #1 to pay off the affordable housing loan, and reserving the balance for purchasing property at a future date. **David Hale** seconded the motion, which was unanimously approved.

### **CITY COUNCIL REPORTS**

**Sid Young** suggested that letters be sent to County Commissioners, adjoining city Mayors, State representatives and other dignitaries, inviting them to the Buffalo Ranches Trail grand opening. He asked that the City Manager and **The Mayor** sign the letters, as will Trails Committee Chairman George Chipman. Margy Lomax said she would draft a letter. **Max Forbush** said it would be appropriate to have an elected official conduct the ceremony.

**Mr. Young** also reported on ideas and statistics that were presented at a Utah Taxpayers Association meeting which he attended.

**David Hale** reminded the Council of past efforts in Kaysville to have a sound wall installed on a portion of I-15, and said it would be in the City's best interest to draft a letter to UDOT in support of the wall. The Council discussed this issue, and the criteria which determines qualification for a sound wall. **Mr. Hale** suggested that **Max Forbush** draft the letter to UDOT.

**Cory Ritz** reported that he received a phone call informing him that UDOT is attempting to buy homes and property within the Option #3 right-of-way, including a homeowner who was contacted whose home is not on the market. **Mr. Ritz** said he would try to verify this information.

**Paula Alder** updated the Council on planned Festival Days activities.

### **MISCELLANEOUS**

**Max Forbush** distributed copies of an email from Emergency Preparedness Coordinator Paul White requesting a swim pass. The Council agreed to approve this request.

The Council briefly discussed Garbett Homes' request for a change in rental policies. **Dave Hale** and **Rick Dutson** explained their change of position regarding this request and said they believe the policy should remain as it is. **Max Forbush** said he would inform Noel Ballsteadt of the Council's decision to leave the current rental policy unchanged.

## **CLOSED SESSION**

A motion to go into closed session to discuss acquisition of real property was made by **David Hale** and was seconded by **Paula Alder**. With all Council Members voting in favor of the motion, the meeting adjourned to a closed session at 10:10 p.m.

## **SWORN STATEMENT**

I, Scott Harbertson, Mayor of Farmington City, do hereby affirm that the items discussed in the closed meeting were as stated in the motion to go into closed session and that no other business was conducted while the Council was so convened in a closed meeting.

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Scott C. Harbertson, Mayor

At 10:30 p. m. a motion to go back into open session was made by **Paula Alder** and seconded by **Rick Dutson**. The motion passed with all Council Members voting in favor.

## **ADJOURNMENT**

With no further business to discuss, **David Hale** moved to adjourn the meeting. The motion was seconded by **Sid Young** and the meeting was adjourned at 10:30 p.m.

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Margy Lomax, City Recorder  
Farmington City